

## **II. REMARKS**

### **Status of Claims:**

Claims 1, 4-9, and 16-25 were pending in the application. Claim 1 is hereby cancelled without prejudice or disclaimer of subject matter contained therein. The Applicants reserve the right to prosecute the subject matter thereof in one or more divisional, continuation, and continuation-in-part application(s). Claims 26-28 are newly-presented. Claims 4-9 and 16-25 are amended merely to change their dependency from Claim 1 to claim 26. Claims 4-9 and 16-28 are now pending. Each of the pending claims defines an invention that is novel and unobvious over the cited art. Favorable re-consideration of this case is respectfully requested.

### **Rejections Under 35 U.S.C. § 103(a):**

A. Claims 1, 4, 5, 7, 16, 18, 21, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable in view of Felberbaum et al. (1997) or Albano et al. (1996) or Engel et al. (1997) or Olivennes et al. (1994), considered in combination with Ziegler et al. (1998), and further in view of Hall et al. (1991).

The Examiner alleges Felberbaum teaches that GnRH antagonists can be administered in an IVF program to avoid premature LH-surges. The Examiner alleges Albano teaches similarly to Felberbaum.

B. Claims 22-24 are rejected under 35 U.S.C. §103(a) as being unpatentable in view of (i) Felberbaum et al. (1997) or Albano et al. (1996) or Engel et al. (1997) or Olivennes et al. (1994), considered in combination with (ii) Ziegler et al. (1998), and further in view of Hall et al. (1991).

The examiner alleges the art to disclose the administration of various compounds and in various amounts. The Applicants respectfully submit that the cited art lacks a teaching of the present invention.

C. Claims 6, 8-9, 17, and 19-20 are rejected under 35 U.S.C. §103(a) as being unpatentable in view of (i) Felberbaum et al. (1997) or Albano et al. (1996) or Engel et al.

**(1997) or Olivennes et al. (1994), considered in combination with (ii) Ziegler et al. (1998), and further in view of Hall et al. (1991) as discussed above and further in view of Deghengi (of record) or Rabasseda (of record).**

The Examiner alleges Deghengi teaches various LHRH antagonists such as cetrorelix, ganirelix, and antide. The Examiner alleges Rabasseda teaches LHRH antagonists such as cetrorelix, ganirelix, and antide are useful in treatment of female infertility.

#### **D. Traversal.**

The Applicants respectfully re-allege their prior arguments. However, in order to advance the prosecution of the present application, the Applicants cancel re-write Claim 1 as Claim 26 to highlight elements of the present invention that are missing from the cited art.

New independent Claim 26 defines first and second menstrual cycles and a luteal phase of said first menstrual cycle. Moreover, new Claim 26 recites administration of an LHRH antagonist during said luteal phase of said first menstrual cycle wherein said LHRH administration induces a luteal regression. None of the cited art discloses luteal regression. None of the art discloses administration of LHRH antagonists to promote luteal regression.

Claim 26 further defines a follicular phase of said second menstrual cycle and defines the second cycle as immediately following the first cycle. The cited art is silent as to first and second cycles. Claim 26 recites a second administration of an LHRH antagonist during said follicular phase. The cited art discloses a follicular administration, but not two discrete LHRH antagonist administrations and does not disclose two discrete LHRH administrations during two discrete cycles.

The cited art does not disclose each recitation of the present invention, as currently amended. Therefore, the cited art cannot render obvious the present invention. In view thereof, the Applicants respectfully request the Examiner withdraw the present rejections and allow the present claims to issue.

**Judicially Created Doctrine of Obviousness Double Patenting.**

Claims 1 and 4-9, 16-21, and 25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,319,192 of Engel et al., in view of Ziegler et al., Hall et al., Deghengi, Rabasseda, and Kent, as applied above.

The Applicants re-allege their prior arguments. However, in order to advance the prosecution of the present application, the Applicants respectfully request the Examiner hold the present rejections in abeyance until such time as allowable claims are identified. The double patenting rejection may subsequently be addressed by means of a terminal disclaimer.

**III. CONCLUSION**

All rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and a Notice to that effect is earnestly solicited. If the examiner identifies any points that he feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned attorney at the telephone number listed below.

Please charge any fees or credit any overpayments associated with the submission of this response to Deposit Account Number 03-3975.

Respectfully submitted,

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